

Exhibit C



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January 12, 2023

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RE: Defendant-Intervenors' December 1, 2022, Production of Documents, LUPE v. Abbott, No. 5:21-cv-00844 (W.D. Tex.)

Los Angeles
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I write to request clarification regarding Defendant-Intervenors' December 1, 2022 production of documents in response to Private Plaintiffs' First Set of Requests for Production. I send this letter in the hope that we can narrow some of the areas of disagreement between the parties.

Sacramento
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Private Plaintiffs served Defendant-Intervenors with their First Set of Requests for Production July 7, 2022. On October 24, 2022, following several meet and confer exchanges, Plaintiffs filed an Opposed Motion to Compel Production of Documents. ECF 469. The Court held a hearing on the pending discovery motions on November 14, 2022. In the November 14, 2022 hearing, Defendant-Intervenors agreed to produce all responsive documents to requests for production ("RFPs") 1 and 3 without objection and without any assertion of privileges, by December 1, 2022. See ECF 490 at 5; Hr'g Tr. at 13:17–22, 35:3–4.

San Antonio
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On December 1, 2022, we received your correspondence and document production in response to RFPs 1, 3, and 5. Private Plaintiffs have several questions and requests with respect to Defendant-Intervenors' production.

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Your December 1, 2022 letter states that Defendant-Intervenors "searched the previously disclosed custodians' committee email accounts for any communications with (*i.e.*, To, From, CC, or

BCC) email accounts containing *.texas.gov and reviewed the search results for documents and communications regarding SB 1, SB 7, HB 3, or HB 6."

First, we understand the "previously disclosed custodians" to be the individuals identified in your August 29, 2022 and October 20, 2022 letters to Plaintiffs' counsel as "individuals with those committees identified as most likely to possess information responsive to Plaintiffs' Requests" and individuals "identified as most likely to have responsive documents[.]". However, the individuals identified by Defendant-Intervenors as being most likely to possess information or most likely to have responsive documents are not necessarily the only individuals associated with Defendant-Intervenors whose email accounts may contain documents "sent to or exchanged with the Texas Legislature [and several other state agencies] regarding SB 1, SB 7, HB 3, or HB 6." Please confirm, with respect to your search of email accounts, whether Defendant-Intervenors made an effort to identify individuals whose email accounts would contain the documents that are the subject of RFPs 1 and 3 before deciding to search the email accounts of the "previously disclosed custodians[.]".

Second, your December 1 letter says that your search was limited to "committee email accounts[.]". The documents you produced in your December 1, 2022 production consist primarily of emails and email attachments. However, RFPs 1 and 3 requested "[a]ll documents, including but not limited to communications, talking points, and memoranda, sent to or exchanged with the Texas Legislature [and several other state agencies] regarding SB 1, SB 7, HB 3, or HB 6." Please conduct a search that includes more than committee email accounts and includes, at a minimum, mail correspondence and other paper communication.

Third, your December 1 document production consists primarily of documents from the period between November 2021 and February 2022. However, the RFPs request documents related to SB 1, SB 7, HB 3, and HB 6. This includes, at a minimum, documents from the period of the 87th Texas Legislature and its first and special sessions, which began in January 2021 and ended with the enactment of SB 1 in September 2021. The relevant period would also include the 2022 Primary and General Elections, to the extent that there were communications related to the effect of SB 1 in the elections. Please conduct a search that includes the full time period relevant to SB 1, SB 7, HB 3, and HB 6.

Fourth, your December 1 letter states that "[a]ll of the documents in the production were collected from Harris County Republican Party custodians" and "[n]o documents responsive to Requests for Production No. 1 or No. 3 were identified in the possession of the previously identified custodians from the Republican National Committee, National Republican Senatorial Committee, National Republican Congressional Committee, or the Dallas County Republican Party." The lack of responsive documents from these organizations raises the possibility that the search terms or time period was too restrictive. Please identify the search terms and parameters used in conjunction with the responses to RFPs 1 and 3. Please also provide a list of the databases that you searched using the identified search terms and parameters.

Fifth, in your December 1, 2022 letter you state that you conducted a search and review “pursuant to Request for Production No. 5, as narrowed in scope per the Court’s order to SB 1 and the predecessor bills.” The Court in its order (Dkt. 490) said it “agreed with the Defendant Intervenors that RFPs 2, 4, and 5 were overly broad and ordered the parties to meet and confer over potential search terms.” In light of our ongoing discussion of RFP 5, please advise whether you consider your December 1, 2022 production to satisfy your obligation to respond to RFP 5.

Sixth, in your December 1 document production we were unable to locate a document specifying which produced documents were responsive to which requests, and whether any documents were withheld based on assertions of privilege. Some of the earlier questions in this letter may also be answered by such a document. Relatedly, a portion of document RCPI_0000162 was redacted pursuant to the First Amendment privilege, but we were unable to locate a document specifying the basis for this assertion of privilege. If you did not serve these documents with your production, please do so now.

Private Plaintiffs reserve the right to raise additional issues related to Defendant-Intervenors’ production as we continue to review it. We very much appreciate your willingness to join us in asking the Court for more time to complete depositions following document production. As we discussed in our meet and confer of January 6, 2023, it is Private Plaintiffs’ preference to have documents prior to depositions and we believe we are working well to negotiate the requests and planned searches. However, the discovery cutoff date on matters related to the primary election of January 27, 2023 will be difficult to meet in light of the ongoing production, and an extension of that date may become necessary. I look forward to speaking with you about these matters and hope that the parties can narrow the scope of disagreement or reach an amicable resolution without seeking additional Court intervention.

Sincerely,

/s/ Nina Perales

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